



[TRANSLATION]

Citation: *MG v Canada Employment Insurance Commission*, 2023 SST 951

Social Security Tribunal of Canada
General Division – Employment Insurance Section

Decision

Appellant: M. G.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission
reconsideration decision (493390) dated July 22, 2022
(issued by Service Canada)

Tribunal member: Charline Bourque

Type of hearing: Videoconference

Hearing date: April 4, 2023

Hearing participant: Appellant

Decision date: April 17, 2023

File number: GE-22-3547

Decision

[1] The appeal is dismissed.

[2] The Claimant hasn't shown just cause (in other words, a reason the law accepts) for leaving her job when she did. The Claimant didn't have just cause because she had reasonable alternatives to leaving. This means that she is disqualified from receiving Employment Insurance (EI) benefits.

Overview

[3] The Claimant left her job on December 16, 2021, and applied for EI benefits. The Canada Employment Insurance Commission (Commission) looked at the Claimant's reasons for leaving. It decided that the Claimant voluntarily left (or chose to quit) her job without just cause, so it wasn't able to pay her benefits.

[4] I have to decide whether the Claimant has proven that she had no reasonable alternative to leaving her job.

[5] The Commission says that the Claimant could have not applied for pre-retirement and continued working.

[6] The Claimant disagrees and says that she asked for fewer hours because of her personal situation. Because of the collective agreement and her age, the employer then required her to retire within six months. The employer allowed her to extend the six-month time limit. But, in December 2021, it required her to retire despite the fact that she wanted to continue working. She is of the view that she didn't voluntarily choose to leave her job because she wanted to continue working.

Issue

[7] Is the Claimant disqualified from receiving benefits because she voluntarily left her job without just cause?

[8] To answer this, I must first address the Claimant's voluntary leaving. I then have to decide whether she had just cause for leaving her job.

Analysis

The parties don't agree that the Claimant voluntarily left her job

[9] The Claimant is of the view that she didn't voluntarily leave her job because she wanted to continue working for her employer.

[10] The Claimant explains that she had an agreement with human resources that allowed her to take four hours of vacation per week. In January 2021, she asked human resources to reduce her work schedule so that she could continue working four fewer hours per week without using her vacation bank.

[11] Human resources informed her that, because of the collective agreement and her age, she could go into pre-retirement and reduce her work week if she agreed to retire after six months. Because of difficult events, the Claimant agreed to do so, believing that human resources would change its mind and allow her to continue working over the longer term.

[12] The Claimant says that she should have retired in June 2021, but was able to work until December. The Claimant also says that she didn't want to retire. She wanted to continue working for her employer and made efforts with the mayor to keep working. Unfortunately, she had no choice but to stop working in December 2021.

[13] I understand that the Claimant considers that the collective agreement and her employer forced her to leave. Still, under the Act, the Claimant voluntarily asked for her hours to be reduced. By agreeing to reduce her hours, she knew that she was doing so as a pre-retirement and that she would have to formally retire after six months.

[14] So, it was the Claimant's efforts that led to her leaving. This means that the Claimant voluntarily left her job because it was her decisions that led to the end of the employment relationship.

[15] Since I find that the Claimant voluntarily left her job, I have to decide whether she had just cause for leaving under the Act.

The parties don't agree that the Claimant had just cause for voluntarily leaving her job

[16] The parties don't agree that the Claimant had just cause for voluntarily leaving her job when she did.

[17] The law says that you are disqualified from receiving benefits if you left your job voluntarily and you didn't have just cause.¹ Having a good reason for leaving a job isn't enough to prove just cause.

[18] The law explains what it means by "just cause." The law says that you have just cause to leave if you had no reasonable alternative to quitting your job when you did. It says that you have to consider all the circumstances.²

[19] It is up to the Claimant to prove that she had just cause.³ The Claimant has to prove this on a balance of probabilities. This means that she has to show that it is more likely than not that her only reasonable option was to quit. When I decide whether the Claimant had just cause, I have to look at all of the circumstances that existed when the Claimant quit.

[20] The Claimant says that she left her job because her employer's collective agreement required her to leave.

[21] The Commission says that the Claimant didn't have just cause because she had reasonable alternatives to leaving when she did. Specifically, it says that the Claimant could have not gone into pre-retirement and would not have been required to retire.

¹ See section 30 of the *Employment Insurance Act* (Act).

² See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3; and section 29(c) of the Act.

³ See *Canada (Attorney General) v White*, 2011 FCA 190 at para 3.

[22] Unfortunately, even though I sympathize with the Claimant's situation and the difficult events that made her want to reduce her hours, I can't go against the Act or change it.⁴

[23] Reducing her hours with the employer remains a personal choice, despite the good reasons the Claimant gave for doing so. In making this choice, the Claimant knew that the collective agreement would require her to retire in the following months. So, the Claimant could not have been unaware that she might be forced to leave her job.

[24] Since she voluntarily agreed to reduce her hours knowing that she would have to retire, the Claimant hasn't shown just cause for leaving. She would have had the option of staying in her job without reducing her hours or continuing to use her vacation to reduce her work schedule without asking her employer to go into pre-retirement.

Conclusion

[25] I find that the Claimant voluntarily left her job and that she hasn't shown just cause within the meaning of the Act. The Claimant is disqualified from receiving benefits.

[26] This means that the appeal is dismissed.

Charline Bourque
Member, General Division – Employment Insurance Section

⁴ See *Granger v. Commission (CEIC)* FCA #A-684-85; *Wegener v. Canada (Attorney General)*, 2011 FC 137.